



AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT
for the
Northern District of New York

UNITED STATES OF AMERICA)
v.)
Bailey BURGER) Case No. 8:25-MJ-19 (GLF)
Defendant.)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of January 26, 2025, in the county of Clinton in the Northern District of New York the defendant violated:

Code Section
8 U.S.C. § 1324(a)(1)(A)(ii)

Offense Description

This criminal complaint is based on these facts:

Continued on the attached sheet.

D. Matthews

1/27/2025 - 3:30 PM

Complainant's signature

U.S. Border Patrol Agent Dustin M. Matthews

Printed name and title

Attested to by the Affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: January 28, 2025

Gary L. Faers
Judge's signature

City and State: Plattsburgh, New York

Hon. Gary L. Favro, U.S. Magistrate Judge

Printed name and title

Continuation Sheet, United States v. BURGER

On January 26, 2025, at approximately 2:20 AM, a Border Patrol agent overserving traffic on Lost Nations Road in Churubusco, New York, spotted two vehicles, a sedan and a Ford Flex, that appeared to be travelling together driving north on Lost Nations Road. Lost Nations Road parallels County Line Road roughly one mile to the east and is frequently utilized for smuggling activity. The vehicles were then detected via electronic surveillance equipment on County Line Road at the intersection on Merchia Road, an unpaved dirt road and at times impassable during the winter months. The vehicles travelled down Merchia Road to reach County Line Road.

Approximately twenty minutes later, the Border Patrol agent positioned on Lost Nations Road observed two sets of headlights travelling south on Lost Nations Road toward his position. The agent positioned his marked Border Patrol Service vehicle facing the road and turned on his takedown lights to illuminate the vehicles as they passed. As the vehicles passed, the agent immediately identified the vehicles as the same ones he observed travelling northbound on Lost Nations Road at 2:20 AM. The vehicles both appeared to be occupied by several individuals and the back windows of both vehicles were fogged up. This condensation on the windows, in the experience of the agents, is indicative that there are likely soaking wet individuals in the vehicle, likely from walking though the deep snowy wooded area along the US/Canada International Border. Both vehicles approached the stop sign at the intersection of Lost Nations Road and US 11. One of the vehicles did not stop and abruptly accelerated. The agent pulled out behind both vehicles and immediately activated his emergency lights and sirens in an attempt to execute a vehicle stop. Both vehicles failed to yield and accelerated. The pursuing agent called for backup agents and notified Swanton Sector Border Patrol Dispatch of the pursuit.

The vehicles travelled east on US 11 towards Ellenburg, New York and as both vehicles approached Brandy Brook Road, the rear vehicle, a Ford Flex ("the Ford Flex"), braked abruptly, and attempted to turn onto Brandy Brook Road. The Ford Flex took the turn too late, went off the road and buried itself in the deep snow in the ditch. The second vehicle, now identified as a Chrysler 300 ("the Chrysler"), continued traveling on US11.

The agent that initiated the pursuit continued to follow the Chrysler. Before entering the town of Ellenburg, New York, the driver slammed the Chrysler's brakes as it pulled to the side of the road. Several individuals exited the Chrysler and ran south towards Ranch Side Park Campground. The pursuing agent notified backup agents to the bailout location, as the Chrysler 300 sped off again. The Agent gave pursuit as the Chrysler then travelled through the town of Ellenburg until it reached Plank Road, where it turned south and then east onto NY State Route 190. The Chrysler then turned north on Forest Road, then east on Irona Road, then north on Alder Bend Road. As the Chrysler turned onto US 11, backup agents joined the pursuit. The pursuit continued east on US 11 until just before the intersection of Blackman Corners Road, where a semi-tractor trailer appeared to slow to almost a complete stop to block the Chrysler. At this time, the Chrysler yielded.

Agents approached the Chrysler, ordered the driver of the Chrysler to show his hands. The driver, later identified as BURGER, Bailey, immediately complied and apologized as agents removed him from the Chrysler and handcuffed him. BURGER was placed under arrest and seated in the back of a marked Border Patrol Service vehicle. BURGER was transported to the Burke Border Patrol Station for record checks, interviews and processing.

The primary pursuing agent along with a US Border Patrol K9 handler and his partner travelled back to the bailout location in Ellenburg, New York. After a short search of the campground area, the K9 was able to detect the individuals that jumped out of the Chrysler hiding under a RV in the Ranch Ride Park Campground. The four male individuals (later identified with initials: L.K, J.S, K.S, V.S.) were questioned as to their citizenship and all claimed to be Indian nationals and admitted to having crossed the US/Canada International Border illegally earlier

Continuation Sheet, United States v. BURGER

in the night. The individuals were placed under arrest and transported to the Burke Border Patrol Station for record checks interviews and processing.

At the station, biographical information and fingerprints were entered into Department of Homeland Security databases for all five subjects. Record checks revealed that BURGER is a citizen of the United States. Record checks revealed that all four of the additional passengers that jumped out of the Chrysler were citizens of India with no documentation to be in, passthrough or remain in the United States legally.

At the station, BURGER was read his *Miranda* rights and agreed to speak with agents without an attorney present. BURGER admitted that he did not know the passengers in his car. BURGER showed agents the pick-up location he received on his phone. BURGER admitted that he instructed everyone to get out of the car so he wouldn't get in any trouble. BURGER admitted that this was the fourth time he had picked up individuals near the international border. BURGER admitted that he suspected that the individuals in his car had illegally crossed the US/Canada International Border but did not think it his business to ask. BURGER admitted that he was being paid \$100 per person for these trips to cover his addiction needs.